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8 Attorneys for Plaintiff KEVIN EMBRY

9  
10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 KEVIN EMBRY, an individual, on  
14 behalf of himself, the general public and  
15 those similarly situated

16 Plaintiff,

17 v.  
18  
19 ACER AMERICA CORPORATION;  
20 AND DOES 1 THROUGH 50

21 Defendants

22 CASE NO. CV-09-1808 (JW)

23 PLAINTIFF'S MOTION FOR ADMINISTRATIVE  
24 RELIEF SHORTENING TIME

25 [Local Rules 6-3 & 7-11]

26 Judge: Hon. James Ware

1       **PLEASE TAKE NOTICE** that Plaintiff hereby moves, pursuant to Local Rules 6-3 and 7-11,  
2 for an order shortening time for the hearing of Plaintiff's motion for sanctions and civil contempt.  
3 (Dkt.# 273.) Plaintiff requests that his motion for sanctions and civil contempt, currently set for hearing  
4 on October 1, 2012, be heard on September 10, 2012.

5       This Motion is based on this Notice of Motion, the supporting Memorandum of Points and  
6 Authorities, the Declaration of Seth A. Safier, the [Proposed] Order Granting this Motion, the  
7 pleadings, other files and records in this action, such other written or oral argument as may be  
8 presented to the Court, and all matters of which the Court may take notice.

9       **MEMORANDUM OF POINTS AND AUTHORITIES**

10       Plaintiff requests that his motion for sanctions and civil contempt be heard on September 10,  
11 2012. Plaintiff further requests that Bandas' opposition be due no later than August 31, 2012, and the  
12 reply be due no later than September 4, 2012. (If necessary, Plaintiff will waive reply.)

13       This matter has been pending since March 2009. On August 22, 2011, this Court ordered  
14 Bandas to dismiss his appeal or post an appeal bond. (Dkt.# 272.) He ignored the order. It is no secret  
15 that Bandas (and his attorney) exclusively seek to delay this settlement in hopes of extracting fees from  
16 the parties. If this motion is heard on a regular calendar, he will again have been successful in delaying,  
17 for another 35+ days, the distribution of the settlement benefits to class members.

18       Plaintiff accordingly requests that this Court hear his motion to compel on shortened time, as set  
19 forth in his proposed order, submitted herewith.

20       DATED:      August 27, 2012

21                   GUTRIDE SAFIER LLP

22                   By: /s/ Seth Safier

23                   Adam Gutride

24                   Seth A. Safier

25                   Attorneys for Plaintiff Kevin Embry

## **DECLARATION OF SETH A. SAFIER**

I, Seth A. Safier, declare and state that:

1. I am an attorney licensed to practice law in the State of California and in this Court, and am counsel of record for Plaintiff in the above captioned matter.

2. I am a partner in Gutride Safier LLP (“GSLLP”). The information below is stated based on personal knowledge. I am competent to testify to the facts set forth below, and if called as a witness and placed under oath, I would testify to those facts.

3. On August 27, 2012, I emailed Bandas' counsel to request that he stipulate to a shortened hearing schedule. He has yet to respond to my request.

4. There have been no previous time modifications on this motion.

5. Class members continue to sustain injury due to this ongoing, frivolous appeal.

I declare under penalty of perjury under the laws of the United States that the foregoing is true of my own personal knowledge. Executed at San Francisco, California, this 27th day of August 2012.



Seth A. Safier